

Executive Summary – Enforcement Matter – Case No. 44722

KMCO, LLC

RN101613511

Docket No. 2012-1602-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

KMCO Crosby Plant, 16503 Ramsey Road, Crosby, Harris County

Type of Operation:

Chemical manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 8, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$35,370

Amount Deferred for Expedited Settlement: \$7,074

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$28,296

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44722
KMCO, LLC
RN101613511
Docket No. 2012-1602-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 25, 2012

Date(s) of NOE(s): July 27, 2012

Violation Information

1. Failed to conduct a stack test on the Salt Heater Emission Point Number [(“EPN” HA)], the Distillation Unit Hot Oil Heater (EPN HJ2), and the Reaction Hot Oil Heater (EPN HH2), by the March 31, 2007 deadline. Specifically, stack tests were not conducted until September 7, 2011 for EPNs HA and HJ2, and September 10, 2011 for EPN HH2 [Federal Operating Permit (“FOP”) No. O1441, Special Terms and Conditions No. 11.A.(i)2., 30 TEX. ADMIN. CODE § 117.335(a)(1) and (c), 117.8000(a), 117.9020(2)(C)(i), and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to comply with the permitted carbon monoxide (“CO”) emissions rate of 0.48 pound per hour (“lb/hr”). Specifically, during a stack test conducted on September 10, 2011, it was determined that the CO emissions rate from the Reaction Hot Oil Heater (EPN HH2) was 2.27 lbs/hr, resulting in the release of approximately 6,571 lbs of unauthorized CO emissions [FOP No. O1441, Special Terms and Conditions No. 7, New Source Review Permit No. 9383, 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On September 7, 2011, Respondent conducted a stack test on the Salt Heater EPN HA and the Distillation Unit Hot Oil Heater (EPN HJ2), and on September 10, 2011, conducted a stack test on the Reaction Hot Oil Heater (EPN HH2).

Technical Requirements:

The Order will require Respondent to:

- a. Within 90 days, demonstrate compliance with the maximum allowable hourly emissions rate for CO from the Reaction Hot Oil Heater (EPN HH2); and
- b. Within 105 days, submit written certification demonstrating compliance with Ordering Provision a.

Executive Summary – Enforcement Matter – Case No. 44722

KMCO, LLC

RN101613511

Docket No. 2012-1602-AIR-E

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Rebecca Johnson, Enforcement Division,
Enforcement Team 5, MC R-14, (361) 825-3423; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Jeff McFerrin, President, KMCO, LLC, 16503 Ramsey Road, Crosby,
Texas 77532

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	30-Jul-2012	Screening	10-Aug-2012	EPA Due	23-Apr-2013
	PCW	10-Aug-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	KMCO, LLC		
Reg. Ent. Ref. No.	RN101613511		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	44722	No. of Violations	1
Docket No.	2012-1602-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	104.0%	Enhancement	Subtotals 2, 3, & 7	\$3,120
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Notes: Enhancement for five NOV's with dissimilar violations, two orders with denial of liability, one order without denial of liability, and one court order with denial of liability. Reduction for one Notice of Intent to conduct an audit.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$750
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$2,670
Approx. Cost of Compliance \$12,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,370
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$5,370
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,370
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,074
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,296
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Screening Date 10-Aug-2012

Docket No. 2012-1602-AIR-E

PCW

Respondent KMCO, LLC

Policy Revision 2 (September 2002)

Case ID No. 44722

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613511

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 104%>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%>> **Compliance History Summary****Compliance History Notes**

Enhancement for five NOVs with dissimilar violations, two orders with denial of liability, one order without denial of liability, and one court order with denial of liability. Reduction for one Notice of Intent to conduct an audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 104%

Screening Date 10-Aug-2012

Docket No. 2012-1602-AIR-E

PCW

Respondent KMCO, LLC

Policy Revision 2 (September 2002)

Case ID No. 44722

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613511

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s)

Federal Operating Permit No. O1441, Special Terms and Conditions No. 11.A.(I)2., 30 Tex. Admin. Code §§ 117.335(a)(1) and (c), 117.8000(a), 117.9020(2)(C)(I), and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to conduct a stack test on the Salt Heater [Emission Point Number ("EPN") HA], the Distillation Unit Hot Oil Heater (EPN HJ2), and the Reaction Hot Oil Heater (EPN HH2), by the March 31, 2007 deadline. Specifically, stack tests were not conducted until September 7, 2011 for EPNs HA and HJ2, and September 10, 2011 for EPN HH2.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential			x

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could have been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

1624 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,000

Three single events are recommended (one for each heater).

Good Faith Efforts to Comply

25.0% Reduction

\$750

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

x

N/A

(mark with x)

Notes

The Respondent completed corrective actions on September 10, 2011, prior to the July 27, 2012 NOE.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,670

Violation Final Penalty Total \$5,370

This violation Final Assessed Penalty (adjusted for limits) \$5,370

Economic Benefit Worksheet

Respondent KMCO, LLC

Case ID No. 44722

Reg. Ent. Reference No. RN101613511

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$12,000	31-Mar-2007	10-Sep-2011	4.45	\$2,670	n/a	\$2,670

Notes for DELAYED costs

Estimated cost of conducting a stack test on the three heaters. The Date Required is the date the stack tests were required. The final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$12,000

TOTAL

\$2,670



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	30-Jul-2012	Screening	10-Aug-2012	EPA Due	23-Apr-2013
	PCW	10-Aug-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	KMCO, LLC		
Reg. Ent. Ref. No.	RN101613511		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	44722	No. of Violations	1
Docket No.	2012-1602-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **100.0%** Enhancement **Subtotals 2, 3, & 7** **\$15,000**

Notes

Enhancement for five NOV's with dissimilar violations, two orders with denial of liability, one order without denial of liability, and one court order with denial of liability. Reduction for one Notice of Intent to conduct an audit.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$1,619**
Approx. Cost of Compliance **\$20,000**

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$30,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$30,000**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$30,000**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$6,000**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$24,000**

Screening Date 10-Aug-2012

Docket No. 2012-1602-AIR-E

PCW

Respondent KMCO, LLC

Policy Revision 3 (September 2011)

Case ID No. 44722

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613511

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	1	30%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 104%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five NOVs with dissimilar violations, two orders with denial of liability, one order without denial of liability, and one court order with denial of liability. Reduction for one Notice of Intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 104%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 10-Aug-2012

Docket No. 2012-1602-AIR-E

PCW

Respondent KMCO, LLC

Policy Revision 3 (September 2011)

Case ID No. 44722

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613511

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s)

Federal Operating Permit No. O1441, Special Terms and Conditions No. 7, New Source Review Permit No. 9383, 30 Tex. Admin. Code §§ 116.115(b)(2)(F) and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the permitted carbon monoxide ("CO") emissions rate of 0.48 pound per hour ("lb/hr"). Specifically, during a stack test conducted on September 10, 2011, it was determined that the CO emissions rate from the Reaction Hot Oil Heater (Emission Point Number HH2) was 2.27 lbs/hr, resulting in the release of approximately 6,571 lbs of unauthorized CO emissions.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4

335 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$15,000

Four quarterly events are recommended based on the September 10, 2011 stack test to the August 10, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	X		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,619

Violation Final Penalty Total \$30,000

This violation Final Assessed Penalty (adjusted for limits) \$30,000

Economic Benefit Worksheet

Respondent KMCO, LLC
 Case ID No. 44722
 Reg. Ent. Reference No. RN101613511
 Media Air
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20,000	10-Sep-2011	23-Apr-2013	1.62	\$1,619	n/a	\$1,619

Notes for DELAYED costs

Estimated cost to implement measures to ensure compliance with the permitted CO emissions rate for the heater. The Date Required is the date of the stack test. The Final Date is the projected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$1,619

Compliance History Report

Customer/Respondent/Owner-Operator: CN604105221 KMCO, LLC Classification: Rating:

Regulated Entity: RN101613511 KMCO CROSBY PLANT Classification: AVERAGE Site Rating: 17.04

ID Number(s): WASTEWATER PERMIT WQ0002712000
WASTEWATER EPA ID TX0095559
AIR OPERATING PERMITS ACCOUNT NUMBER HG0426B
AIR OPERATING PERMITS PERMIT 1441
AIR NEW SOURCE PERMITS PERMIT 3954
AIR NEW SOURCE PERMITS PERMIT 9383
AIR NEW SOURCE PERMITS REGISTRATION 47535
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0426B
AIR NEW SOURCE PERMITS AFS NUM 4820100381
AIR NEW SOURCE PERMITS REGISTRATION 72308
WASTEWATER LICENSING LICENSE WQ0002712000
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0426B
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD074198961
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 31904
(POLLUTION PREVENTION PLANNING (SWR) ID NUMBER P01630

Location: 16503 RAMSEY ROAD, CROSBY, TX, 77532

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 20, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 10, 2007 to August 10, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rebecca Johnson Phone: (361) 825-3423

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? YES
3. If YES, who is the current owner/operator? KMCO LLC
4. If YES, who was/were the prior owner(s)/operator(s)? KMCO, L.P.
5. If YES, when did the change(s) in owner or operator occur? 7/1/12
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 03/23/2009

ADMINORDER 2008-1543-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition #6 PERMIT

Description: The Respondent failed to control unauthorized emissions during an emissions event in the Reaction 2 Unit on January 24, 2008.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(f)

5C THSC Chapter 382 382.085(b)

Description: The Respondent failed to timely provide additional information requested by the TCEQ Houston Regional Office regarding the January 24, 2008 emissions event,

Effective Date: 07/24/2009

COURTORDER

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about January 5, 2005 an inspector with Harris County collected a water sample from Outfall No. 1 at the KMCO facility. An analysis of the sample shows that the ammonia levels are 60.5 mg/l which exceeds the maximum level set by WQ02712 of 10mg/l. This is a violation of Chapter 26.121 of

the Texas Water Code and a violation of TDPES permit number WQ02712.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about November 1, 2005 an inspector with Harris County collected a water sample from Outfall No. 1 at the KMCO facility. An analysis of the sample shows that the ammonia levels are 11.8 mg/l which exceeds the maximum level set by WQ02712 of 10mg/l. Additionally, the TOC levels contained 244 mg/l which violates the TDPES permit condition of 200 mg/l. This is a violation of Chapter 26.121 of the Texas Water Code and a violation of TDPES permit number WQ02712.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about December 1, 2005 an investigator from Harris County conducted an investigation of the facility. The investigation included an odor survey. The inspector found a strong plastic like odor from an ethanol/ ethyl acrylate spill at the facility and found the odor to be in such concentration and of such duration as to interfere with the normal use and enjoyment of property located adjacent to the facility. The complainant stated that the odor was strong enough and lasted long enough to

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

TWC Chapter 26 26.121

Description: On or about February 16, 2006 an investigator from Harris County inspected the facility. The investigation included an odor survey. The complainant stated that her eyes became watery before she was forced to leave the area due to nausea caused by the odors. This constitutes a violation of 30 TAC 101.4 and the permanent injunction entered by the court on. May 6, 1990.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about March 4, 2006 an investigator from Harris County collected samples of the water directly from Outfall 001. The analysis of the samples revealed BOD at 1020 mg/l, TSS measured 800 mg/l, TOC measured 839 mg/l, and COD measured 2503 mg/l. This constitutes a violation of TDPES permit WQ02712 and Section 26.121 of the Texas Water Code.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

Description: On or about March 31, 2006 an investigator from Harris County inspected the facility. The investigation included an odor survey. The investigator collected an air sample at the facility. The next day she became ill as a result of her re-exposure to the odor of propionic acid that lingered in her vehicle from the inspection. This constitutes a violation of 30 TAC 101.4 and the permanent injunction entered by the court on. May 6, 1990.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

5C THSC Chapter 382 382.015

Description: On or about April 1, 2006 an investigator from Harris County returned to inspect the facility as a result of the propionic acid spill from the previous day. The investigation included an odor survey. The inspector found a moderately strong acrylate type odor coming from the KNMCO facility. This constitutes a violation of 30 TAC 101.4 and the Texas Health and Safety Code Section 382.015.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about April 6, 2006 an investigator from Harris County inspected the facility and took water samples from Outfall 001. The analysis of the samples shows ammonia at 14.1 mg/l in excess of the 10 mg/l set by NPDES permit WQ02712

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4

5C THSC Chapter 382 382.015

Description: On or about November 2, 2006 an investigator from Harris County responded to complaints at the Crosby Elementary School. At the facility the investigator learned that the scrubbers that service the sulfurized isobutylene units, K-1/ K-9 were not working and that approximately 10% to 15% of the waste gas from the unit was allowed to bleed into the a This constitutes a violation of 30 TAC 101.4, the permanent injunction entered by the court on. May 6, 1990 and Texas Health and Safety Code 382.085.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about March 21, 2007 an investigator from Harris County inspected the facility and took water samples from an outfall at the wastewater treatment plant. The analysis of the samples shows TSS at 140 mg/l in excess of the 90 mg/l set by NPDES permit WQ02712.

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: On or about March 27, 2007- unpermitted discharge of wastewater was documented and analyzed for CBOD, TOC, and BCOD. It constitutes violation of the Texas Water Code 26.121.

Classification: Moderate
Citation: TWC Chapter 26 26.121

Description: On or about August 17, 2007 - foam was observed in the discharge. This is in violation of condition No. 3 TDPE Permit No. WQ02712.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.4

Description: On or about October 21, 2007 an investigator from Harris County responded to complaints of odors emanating from the facility as a result of a spill of a material called Tergitol. The inspector felt enough discomfort to determine that the odor was of such concentration and for such duration as to constitute a nuisance. This constitutes a violation of 30 TAC 101.4 and the permanent injunction entered by the court on May 6, 1990.

Effective Date: 10/18/2009

ADMINORDER 2009-0299-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01441, General Terms and Condition PERMIT
Special Condition 8 OP

Description: Failed to report a deviation for the deviation reporting period of January 20, 2005 to July 19, 2005 and for the deviation reporting period of July 20, 2006 to January 19, 2007. Specifically, permit compliance certifications were submitted for these two periods, but did not contain any deviations.

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 27 PA
Special Condition 8 OP

Description: Failed to submit the results of sampling/testing of the cooling tower system volatile organic compound emissions to the TCEQ within 30 days after completion. Specifically, the El Paso Method of sampling was initiated on June 22, 2006, but the results were not submitted to the TCEQ.

Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP No. O-01441, General Terms and Cond. OP
O-01441, Special Condition 8 OP
Special Condition 31 PA
Special Condition 36 PA
Special Condition 45 PA

Description: Failed to maintain temperature records of the ethylene oxide storage tanks for at least two years. Specifically, no temperature records were available prior to December 13, 2007

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01441, General Terms & Conditions OP
Special Condition 8 OP
Special Condition 36 PA
Special Condition 41(B) PA
Special Condition 41(F) PA

Description: Failed to maintain at least two years of records of leak test and control method used for tank truck/railcar loading and unloading operations. Specifically, at the time of the investigation, the tank truck/railcar records did not include the date of the last leak testing or control method used.

Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter B 115.160(2)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01441, General Terms & Conditions OP
FOP O-01441, Special Condition 8 OP
Special Condition 3B(iii) OP

Description: Failed to conduct annual visible emission observations of 98 stationary vents during the 12 months prior to the investigation and to demonstrate compliance with the annual mass emissions for the stationary vents by maintaining records of production and operating hours for each individual vent.

Classification: Minor
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01441, General Terms & Conditions OP
O-01441, Special Condition 3B(i) OP

Description: Failed to limit opacity from the natural gas-fired heater. Specifically, on January 24, 2005, opacity was 30 percent for approximately 15 minutes.

Effective Date: 04/18/2011

ADMINORDER 2010-1446-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(1)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01441 General Terms and Conditions OP

Description: Failure to submit a PCC report for the period of January 21, 2009 - January 20, 2010 within 30 days. Category A8 (c) (1) (E)

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/14/2012	(1004867)
2	04/20/2012	(1011437)
3	05/18/2012	(1017792)
4	06/08/2012	(1025577)
5	07/18/2012	(1032913)
6	08/16/2007	(568432)
7	09/06/2007	(570520)
8	08/30/2007	(571101)
9	08/28/2007	(604957)
10	09/05/2007	(604958)
11	01/17/2008	(609975)
12	10/22/2007	(626809)
13	11/28/2007	(626810)
14	01/04/2008	(626811)
15	08/27/2008	(636413)
16	02/18/2008	(676003)
17	03/20/2008	(676004)
18	04/18/2008	(676005)
19	01/28/2008	(676006)
20	02/10/2009	(681758)
21	05/19/2008	(694378)
22	06/18/2008	(694379)
23	07/21/2008	(694380)
24	10/20/2008	(703823)
25	01/27/2009	(709545)
26	08/20/2008	(715777)
27	09/24/2008	(715778)
28	10/23/2008	(715779)

29	11/20/2008	(731453)
30	01/07/2009	(731454)
31	01/20/2009	(731455)
32	04/16/2009	(736603)
33	06/30/2009	(737084)
34	02/20/2009	(754775)
35	04/16/2009	(754776)
36	04/16/2009	(754777)
37	05/18/2009	(771985)
38	06/11/2009	(771986)
39	01/19/2010	(788219)
40	04/14/2010	(797984)
41	02/17/2010	(815998)
42	11/20/2009	(815999)
43	12/18/2009	(816000)
44	01/12/2010	(816001)
45	08/09/2010	(826932)
46	08/09/2010	(830100)
47	03/25/2010	(834813)
48	04/19/2010	(834814)
49	05/17/2010	(834815)
50	06/10/2010	(847467)
51	07/13/2010	(861887)
52	08/17/2010	(868388)
53	10/13/2010	(875311)
54	04/19/2011	(877589)
55	10/13/2010	(882876)
56	11/18/2010	(889268)
57	12/20/2010	(897656)
58	01/13/2011	(903540)
59	02/18/2011	(910445)
60	03/21/2011	(917676)
61	04/20/2011	(928997)
62	05/25/2010	(928998)
63	05/25/2010	(928999)
64	11/10/2009	(929000)
65	10/13/2009	(929001)
66	07/08/2011	(934912)
67	05/20/2011	(939379)
68	09/21/2011	(943599)
69	06/20/2011	(946791)
70	08/22/2011	(954052)
71	08/21/2011	(960639)
72	09/19/2011	(966709)
73	10/20/2011	(972708)
74	11/18/2011	(978849)
75	12/19/2011	(985687)
76	01/20/2012	(992016)

77 07/27/2012 (997743)

78 02/20/2012 (999350)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	08/14/2007	(562334)	CN604105221	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)			
	9383 SC 43G PERMIT O-01441 SC 8A OP			
Description:	Failure to document the scrubber fluid flow rate as required by permit 9383 special condition 43:G			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) O-01141- SC8A OP Permit 9383 SC 12 PERMIT			
Description:	Failure to operate scrubber in accordance with attachment B of Permit 9383 special condition 12.			
Date:	09/30/2007	(626809)	CN604105221	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2007	(626810)	CN604105221	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	06/30/2009	(737084)	CN604105221	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THSC Chapter 382 382.085(b) General Terms and Conditions OP			
Description:	Failure to report all instances of deviations within the first semi-annual reporting period of January 21, 2008 through July 20, 2008. (Category B3)			
Date:	08/10/2012	(976095)	CN604105221	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.201(b) 5C THSC Chapter 382 382.085(b)			
Description:	Failure to create and maintain a final record of all non-reportable emissions events.			

F. Environmental audits.

Notice of Intent Date: 06/15/2012 (1014409)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KMCO, LLC
RN101613511**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-1602-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding KMCO, LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant at 16503 Ramsey Road in Crosby, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 1, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirty-Five Thousand Three Hundred Seventy Dollars (\$35,370) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Eight Thousand Two Hundred Ninety-Six Dollars (\$28,296) of the administrative penalty and Seven

Thousand Seventy-Four Dollars (\$7,074) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that on September 7, 2011, the Respondent conducted a stack test on the Salt Heater [Emission Point Number ("EPN") HA] and the Distillation Unit Hot Oil Heater (EPN HJ2), and on September 10, 2011, conducted a stack test on the Reaction Hot Oil Heater (EPN HH2).
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to conduct a stack test on the Salt Heater (EPN HA), the Distillation Unit Hot Oil Heater (EPN HJ2), and the Reaction Hot Oil Heater (EPN HH2), by the March 31, 2007 deadline, in violation of Federal Operating Permit ("FOP") No. 01441, Special Terms and Conditions No. 11.A.(i)2., 30 TEX. ADMIN. CODE § 117.335(a)(1) and (c), 117.8000(a), 117.9020(2)(C)(i), and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 25, 2012. Specifically, stack tests were not conducted until September 7, 2011 for EPNs HA and HJ2, and September 10, 2011 for EPN HH2.
2. Failed to comply with the permitted carbon monoxide ("CO") emissions rate of 0.48 pound per hour ("lb/hr"), in violation of FOP No. 01441, Special Terms and Conditions No. 7, New Source Review ("NSR") Permit No. 9383, 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on April 25, 2012. Specifically, during a

stack test conducted on September 10, 2011, it was determined that the CO emissions rate from the Reaction Hot Oil Heater (EPN HH2) was 2.27 lbs/hr, resulting in the release of approximately 6,571 lbs of unauthorized CO emissions.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: KMCO, LLC, Docket No. 2012-1602-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, demonstrate compliance with the maximum allowable hourly emissions rate for CO from the Reaction Hot Oil Heater (EPN HH2), in accordance with NSR Permit No. 9383; and
 - b. Within 105 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature


could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

2/18/13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

12/12/12
Date

JEFF MCFERRIN
Name (Printed or typed)
Authorized Representative of
KMCO, LLC

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.